



Comptroller General
of the United States

Washington, D.C. 20548

(Gilhooly)

Decision

Matter of: Air Inc.--Request for Reconsideration

File: B-238220.2

Date: January 29, 1990

DIGEST

An untimely protest will not be considered under the significant issue exception to the bid protest timeliness requirements where the issue raised is not one of widespread interest to the procurement community.

DECISION

Air Inc. requests that we reconsider our January 10, 1990, dismissal of its protest of any award under solicitation No. FCEP-BG-J-2492-S issued by the General Services Administration (GSA) for disk sanders. We dismissed Air's protest as untimely because it was filed more than 10 working days after the contracting agency dismissed the firm's agency-level protest.

We deny the request for reconsideration.

Air initially filed an agency-level protest with GSA contending that the solicitation's specifications did not clearly define the government's requirements. According to Air, GSA in the past had rejected sanders which had a pad nut protruding beyond the rubber backing plate; Air argued that GSA should revise the item description to clarify its position on the matter. After receiving GSA's denial of the protest on November 21, Air requested GSA to reconsider its decision. GSA denied the request by letter dated December 20, which Air received on December 26. Air then filed its protest with our Office on January 4, 1990.

Our Bid Protest Regulations provide that where a protest has been initially filed with the contracting agency, any subsequent protest to our Office must be filed within 10 working days of receiving notice of initial adverse agency action in order to be considered timely. 4 C.F.R. § 21.2(a)(3) (1989). Air's January 4 protest to our Office was therefore untimely, since it was filed more than 10 working days after Air's November 21 receipt of an

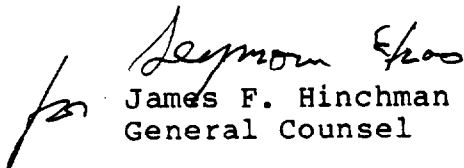
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adverse decision by GSA. Philadelphia Maintenance Co., Inc., B-235399, Aug. 11, 1989, 89-2 CPD ¶ 132.

In its request for reconsideration, Air argues that its protest should be considered under the significant issue exception to our timeliness regulations found at 4 C.F.R. § 21.2(b).

Our timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. Grant Technical Servs., B-235231.2, May 26, 1989, 89-1 CPD ¶ 514. In order to prevent those rules from becoming meaningless, exceptions are strictly construed and rarely used. Id. The significant issue exception is limited to untimely protests that raise issues of widespread interest to the procurement community which have not been considered on the merits by this Office in a previous decision. Herman Miller, Inc., B-237550, Nov. 7, 1989, 89-2 CPD ¶ 445. Air's protest of an agency's definition of its need in one specification does not meet this standard.

We, therefore, deny Air's request for reconsideration.


James F. Hinchman
General Counsel